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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,622	07/01/2004	Dale Barrett	OT-4919	3000

7590 10/10/2006  
Thomas H Osborn  
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EXAMINER

KRUER, STEFAN

ART UNIT PAPER NUMBER

3654

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/500,622	Applicant(s) BARRETT ET AL.	
	Examiner Stefan Kruer	Art Unit 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 2, 5 - 9 and 13 - 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 2, 5 - 9 and 13 - 17 is/are rejected.
- 7) ☒ Claim(s) 1 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>21 September 2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

### *Claim Objections*

**Claim 9** is objected to because of the following informalities: "... - and a self-aligning washers..." should be written as "... and a self-aligning washer...". Appropriate correction is required.

In **Claims 1 and 9**, the term "adapted to" is objected, in that an element that is "adapted to" perform a function is not a positive limitation and only requires the ability to so perform, in re Hutchinson 69 USPQ 138.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 – 2 and 9** are rejected under 35 U.S.C. 102(b) as being anticipated by O'Donnell et al (6,123,176).

**Re: Claims 1, 2 and 9**, O'Donnell et al disclose:

- A measuring apparatus (62, 56, 67, 64, 66) for measuring the load of an elevator car (18) suspended by a tension members (22),
- A plurality of terminations (52), each at one end of each tension member,
- A mounting plate (48) for attaching the terminations relative the hoistway (Col.5, Line 14),

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- A plurality of hitches (58, 60, 54), each for attaching a termination to the mounting plate,
- The apparatus comprises a load cell (56) for each termination alternatively positioned between the hitch and mounting plate (Col. 5, Line 1),
- Wherein the load cell generates a signal proportional to the load,
- Wherein the load cell comprises an annular shape,
- A self-aligning washer (58) located between each hitch and its associated load cell to maintain each hitch in a position normal to each load cell, each said washer having first and second portions for respective interface of said load cell and said hitch, whereby said hitch is maintained in a position normal to said load cell.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5 - 8 and 13 - 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al (6,123,176) in view of Ando (6,435,316).

**Re: Claims 5 and 13**, O'Donnell et al disclose the viability of their measuring apparatus with a "...dead-end hitch...", as reviewed in Claim 1, he is silent as to the mounting means of their measuring apparatus in such an installation as well as to the use of guide rails.

Attention is directed to Ando who teaches his dead-end hitch (19) fixed to his guide rails (31) by means of his support columns (33), whereby the moment arm generated by the cantilevered mounting means are supported by the support column.

It would have been obvious to one of ordinary skill in the art to modify the invention of O'Donnell et al with the teaching of Ando to define the alternative mounting means of O'Donnell et al with the support capabilities afforded by the structure of the guide rails and, specifically, their support columns.

**Re: Claims 6 – 7 and 14 - 15**, Ando teaches his beam (33) located at the top of his hoistway, whereby his hoistway is defined by an elevator shaft and wherein the mounting plate is attached to the beam, for benefit of isolating the moment arm from the guide rails.

**Re: Claims 8 and 16**, Ando teaches his termination (19) attached to the beam.

**Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al, as applied to Claim 1, in view of Yoo (5,421,433).

O'Donnell et al disclose their washer as comprising first and second portions; however, said portions do not uniquely comprise one of concave and convex surface.

Attention is directed to Yoo who teaches his washer (28) having concave and convex surfaces of nylon to seat his hitch spring and, in part, to minimize movement of his terminations (Col. 3, Line 40 - 48).

It would have been obvious to one of ordinary skill in the art to modify the invention of O'Donnell et al with the teaching of Yoo to properly seat the hitch springs and minimize movement of the terminations for the benefits of optimizing the performance of the sensor as well as guarding its structural integrity.

### ***Response to Arguments***

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shon (6,315,084) and Stainken (3,610,342) are cited for reference of a measuring apparatus having a load sensor positioned between the hitch and mounting plate and a self-leveling mount incorporating a self-aligning washer of spherical form to minimize any offset in the center of gravity of a suspended component and a washer having spherical form to minimize "...unwanted bending moments..." within a load weighing apparatus for elevators (Col. 5, Line 18), respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

27 September 2006

*Kathy Matecki*  
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